IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8702 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ANANDJIWALA AVANI MADHUKAR - Petitioner(s)
Versus
DIRECTOR OF TECHNICAL EDUCATIONAL (DELETED) & 3 - Respondent(s)

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Appearance :

MR BR PARIKH for Petitioner(s) : 1,
DELETED for Respondent(s) : 1, 3,
MR SIRAJ GORI AGP for Respondent(s) : 2,
MS KJ BRAHMBHATT for Respondent(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 21/06/2006

ORAL JUDGMENT

1. In the present petition, the petitioner has

prayed for a direction to admit her in any college offering course of degree in Engineering in the branch of Electronics and Communications. In the alternative it is prayed that the respondents be directed to refund the fee of Rs. 42,575/- paid by the petitioner to the respondent no.4 institute. While issuing notice on 25th February, 1999 this Court did not find any merits about the grievance of the petitioner for admission to the engineering degree course in Electronics and Communications. However, for the purpose of refunding of the fees collected notice was issued.

2. To appreciate the controversy between the parties few facts would be necessary to be noted. The petitioner had completed her studies in diploma with Electronics and Communications. She was interested in getting admission in the degree course of engineering with Electronics and Communications. She, therefore, applied to the authorities for being granted such an admission. Her application was considered. She was called for interview (counselling) by letter dated 30th June, 1997.

Ultimately the centralised committee appears to have granted admission to the petitioner in the branch of Electronics and Communications. She was assigned to respondent no.4 college. On or around 7th August, 1997 the petitioner paid the fees for first full year of the course. A receipt in this regard was issued to the petitioner by the respondent no.4 on 8/7/1997. The petitioner paid a total of Rs. 42,575/-.

2.1 It is the case of the petitioner that soon after joining the course she realised that the course is not for Electronics and Communications but is only for Electronics Engineering. The petitioner was not interested in pursuing studies in Electronics Engineering. She, therefore, vacated the seat and demanded that she be given admission in the proper course or atleast the fees paid by her be refunded. When neither of the two requests was accepted the petitioner approached this Court.

3. As noted earlier at the time of the issuance of the notice this Court had though turned down the request of the petitioner for being assigned the seat

in some other college, was inclined to consider the request to refund the fees. In any case at this distant point of time it would not be possible to permit the petitioner to join the course in her chosen field. Learned advocate Shri Parikh for the petitioner also does not advance any argument in this regard. The sole question that calls for consideration is whether the petitioner is entitled to receive the fees paid by her to respondent no.4.

4. The petitioner has produced on record a communication dated 30th July, 1997 by which she was called for counselling along with her original certificates. This clearly records a noting “EC-62”. From the booklet published by the authorities for information of general public, it can be easily traced that abbreviation EC refer to Electronics and Communications. Thus the central admission committee did accept the candidature of the petitioner in the course of Electronics and Communications. Eventually on the basis of this communication, the petitioner was given admission in respondent no.4 college. Till that stage the petitioner was perfectly justified

being under the impression that she is granted admission in the course of Electronics and Communications.

4.1 The situation however, underwent a change when respondent no.4 college accepted the fees only in the course of Electronics. This is clear from the receipt dated 7th August, 1997. The respondent no.4 through various affidavits have stated that the information booklet was made available to the petitioner before filling up the form for fees which clearly reveals that in the respondent no.4 college there is no course of Electronics and Communications. Respondent no.4 college is authorised to impart education only in the course of BE Electronics. The respondents have also stated, inter alia, that the petitioner was aware that the admission is being granted in the course of BE Electronics. Additionally in the communication dated 30th December, 1997 the Director of Technical Education has also indicated that the petitioner was placed at serial no. 62 on merit list in the branch of Electronics and Communications in which last admission was granted upto merit list at 44. On the strength of her marks,

therefore, the petitioner was not entitled to receive admission in the course of Electronics and Communications.

5. Respondent no.4 has also stated in an affidavit dated 3rd April, 1999 that the petitioner cannot ask the refund of the fees paid to the college as her seat will remain vacant till the completion of course.

6. Petitioner has strongly disputed the above aspects and has urged through her learned advocate that the petitioner was misled into believing that she was being enrolled in the course of BE Electronics and Communications. It would only on that premise that the petitioner paid fees for the full year.

7. I find that initially there was some mistake on the admission committee to assign the petitioner in the course of Electronics and Communications. The communication through which the petitioner was summoned for interview clearly suggests this slip on

the part of the committee. It may also have happened that the petitioner was directed to respondent no.4 college on the basis of this invitation to appear for interview. Till that stage the petitioner was carrying an impression that she has been successful in receiving admission in the course of BE Electronics and Communications. However, when the petitioner was actually admitted to the college it was made amply clear to her that she is getting admission in BE Electronics. Firstly the payment receipt clearly suggests this. Secondly the information booklet also had sufficient information in this regard. Thirdly respondent no.4 college was only imparting education in BE Electronics. If at all therefore it was a slip on the part of the petitioner or her parents to properly verify the full facts before paying the fees. She, therefore, cannot claim refund of the fees paid to the college. Even otherwise I have serious doubts about the maintainability of the petition seeking refund of the fees from a self-financed college.

8. As noted earlier in any case the petitioner

could not have got admission in the course of BE Electronics and Communications on the basis of her merit position. Though initially she was called for interview for the said course, she was given admission only in the course BE Electronics for which course the fees was paid. I see no possibility of refunding of the fees.

9. The petition is, therefore, rejected. Rule is discharged. No costs.

(Akil Kureshi, J.)

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